



Appeal Decision

Site visit made on 24 October 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/K0235/W/22/3297256

Channels End Farm, Channels End Road, Colmworth MK44 2NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs R Amos against the decision of Bedford Borough Council.
 - The application Ref 22/00001/FUL, dated 3 January 2022, was refused by notice dated 24 March 2022.
 - The development proposed is link between garage and annex bedrooms, conversion of garage to annex living room and associated works to curtilage listed building.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council granted listed building consent¹ for works comprising 'link between garage and annex bedrooms, conversion of garage to annex living rooms and associated works to curtilage listed building' on 28 March 2022. However, even though the description of works is the same as the description of development in this appeal, planning permission for the development has not been granted and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 still requires special regard be paid to the desirability of preserving a listed building and its setting or any features of special architectural or historic interest which it possesses.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be tantamount to creating an additional independent dwelling and, if so, whether or not the proposal would constitute sustainable development in a countryside location; and
 - The effect of the proposal upon the setting and thereby the significance of the Grade II listed building known as 'Cottage South of Hillview Farm' (the listed building).

¹ Ref: 22/00002/LBC

Reasons

Whether or not an independent dwelling

4. The Bedford Borough Local Plan (January 2020) (the Local Plan) sets out an overarching strategic framework for ensuring that sufficient new development is delivered in sustainable locations to meet identified needs. The site is situated outside of any defined Settlement Policy Area and is thus located within the countryside as defined in local planning policy terms. Indeed, the site is remotely located relative to the range of facilities and services realistically required to serve day-to-day needs.
5. Policy 7S of the Local Plan relates to development in the countryside and lists specific situations where proposed development shall be permitted. As set out in the policy's supporting text, sufficient flexibility is incorporated to support the provision of new homes where they will enhance or maintain the vitality of rural communities and meet identified needs. The appellants have not sought to dispute that the provision of an additional dwelling would lead to conflict with Policy 7S and with the Council's wider spatial strategy. It is instead their case that the annex, once extended through the conversion of an existing garage and the construction of a linking structure, would continue be used/occupied for purposes ancillary to the residential use of Channels End Farm.
6. The reconfigured/extended annex that is proposed would comprise two bedrooms, a bathroom, a toilet, an open plan living/dining/kitchen area, a study, and utility/storage areas. Moreover, the annex, as proposed, would contain all the domestic amenities realistically required to support independent living. The extent of habitable floor space proposed also supports this finding. As such, there is a strong likelihood that any future occupier of the annex would not seek to utilise facilities located within the main dwelling.
7. The site is served by an access point that provides direct access to both the main dwelling and the annex on a shared basis. Whilst the proposal involves the retention of this shared point of access, the distinct physical separation that avails between the main dwelling and the annex would offer the realistic potential for separate residential curtilages to form, albeit most likely on a tightly dimensioned basis with respect to the proposed annex.
8. My attention has been drawn to a historic legal agreement pursuant to Section 106 of the Act (the S106 agreement). This is dated September 2004 and was drawn up when a planning application was originally made for the creation of the existing annex. It places various covenants upon the site's owners (now the appellants), which include that no buildings for residential accommodation other than the annex are erected, and that the annex is only used or occupied for purposes ancillary to the residential use of Channels End Farm.
9. However, the S106 agreement relates specifically to the historic planning and listed building consent applications that were made. Whilst the S106 agreement's requirements likely hold significant weight currently, this would not be the case should separate planning permission be granted and subsequently implemented for development involving an extension to the annex and associated conversion works. Thus, the S106 agreement is of limited relevance to my considerations.

10. I have also been made aware that at Ommadawn, a nearby Channels End Road property, planning permission was granted in 2016 for the conversion of a workshop to an annex including a new conservatory. No legal agreement to control the nature of use/occupation was entered into. The annex that has been formed is large and contains all the amenities required for independent living. Further, the layout of the Ommadawn site offers the potential for separate curtilages to be formed. However, the permission was granted in advance of the Local Plan's adoption. Thus, when compared to the current policy situation, a different development plan and spatial strategy were in place. On this basis, despite any policy or case similarities that avail, the Ommadawn permission does not set a precedent for decision making.
11. Whilst a planning condition was imposed in 2016 which sets out that at no time is the annex at Ommadawn to be used as a separate unit of accommodation, I do not consider that such an approach would be suitably robust in the circumstances of the case that is before me. Moreover, it would, to my mind, be unduly challenging to effectively monitor and enforce how and by whom the proposed annex would be used and occupied by on a day-to-day basis. This is particularly so when noting the proposed annex's clear capability to be occupied on an independent basis.
12. Whilst various appeal decisions relating to sites elsewhere have been put before me, only one relates to a site in Bedford Borough and, in all cases, the site-specific circumstances vary to those at play at Channels End Farm. As such, the other appeal decisions that have been submitted are of limited relevance to my considerations.
13. Nevertheless, for the above reasons, the proposal would be tantamount to creating an additional independent dwelling. On this basis, the proposal would cause harm by not constituting sustainable development in a countryside location and would conflict with Policies 3S, 7S and 66 of the Local Plan in so far as these policies seek to deliver sustainable development and growth that enhances the vitality of the Borough's urban and rural communities.
14. Policy 4S of the Local Plan sets out the amount and distribution of housing development in overarching terms and does not explicitly rule out some development in rural areas. For the avoidance of doubt, I do not find the proposal to conflict with the broad aspirations of Policy 4S.

Setting and significance of the listed building

15. The Grade II listed building is a 17th-century timber framed, thatched and rendered cottage. The significance and special interest of the listed building is drawn, in-part, from its age and surviving historic fabric, its diminutive scale and its traditional construction and materials. Notwithstanding changes over time, the relative openness of the listed building's wider countryside surroundings contribute to its setting and significance as a modest rural dwelling reflective of the local vernacular.
16. The proposal includes the construction of a linking element between existing weather-boarded outbuildings situated to the front of the listed building. The resulting single building would be of relatively modest scale and uncomplicated composition, in keeping with the appearance of the area and material treatments seen elsewhere in the locality. Moreover, no increase in building

height is intended and the newly proposed linking element would be of small size and complementary form and appearance.

17. As such, the proposal would not harmfully undermine an appreciation of the asset's open and rural surroundings or its setting. Rather, I consider the proposed development would preserve the special interest of the listed building and cause no harm to its significance as a designated heritage asset. The scheme accords with Policy 29 of the Local Plan in so far as it requires new development to protect and, where appropriate, enhance heritage assets and their settings, and with the historic environment policies contained within the National Planning Policy Framework (July 2021).

Planning Balance

18. The proposal would deliver enhanced/additional living accommodation at the site. However, it would do so in conflict with the Council's spatial strategy for development in a rural location isolated from local facilities and services. The scheme's benefits would be limited and would not outweigh the harm and associated policy conflicts that I have identified. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

19. Whilst I have identified that no harm would be caused to the heritage significance or special interest of the listed building, the proposal would cause harm via being tantamount to creating an additional independent dwelling in a countryside location and thus not constituting sustainable development. That harm is the overriding consideration in this case. For the reasons given above, I conclude that the appeal should be dismissed.

Andrew Smith

INSPECTOR